



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

TRINITY PARK SURGERY CENTER
3501 MATLOCK ROAD
ARLINGTON TX 76015-3604

Respondent Name

AMERICAN ZURICH INSURANCE CO

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-09-A146-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "First Health PPO Contract."

Amount in Dispute: \$965.82

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "This case involves DOS 09/03/08, carrier paid \$2,447.38 or a bill for \$3,413.20 (MAR), leaving \$965.82 in dispute according to the Requestor. Carrier paid per its PPO contract with the provider."

Response Submitted by: FOL on behalf of Zurich American Insurance Co., P.O. Box 13367, Austin, TX 78711

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 3, 2008	ASC Services for code 26746-F2	\$643.88	\$643.88
	ASC Services for code 26735-F2	\$321.94	\$321.94
TOTAL		\$965.82	\$965.82

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.402, titled *Ambulatory Surgical Center Fee Guideline*, effective August 31,

2008, sets out the reimbursement guidelines for ambulatory surgical care services.

3. Texas Labor Code Ann. §413.011(d-3) states the division may request copies of each contract and that the insurance carrier may be required to pay fees in accordance with the division's fee guidelines if the contract is not provided in a timely manner to the division.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated January 26, 2009

- 45-Charges exceed your contracted/legislated fee arrangement.
- 793-Reduction due to PPO contract.
- 59-Charges are adjusted based on multiple surgery rules or concurrent anesthesia rules.
- 329-Allowance for this service represents 50% because of multiple or bilateral rules.

Explanation of benefits dated June 18, 2009

- 45-Charges exceed your contracted/legislated fee arrangement.
- 770-Complex bill review.

Issues

1. Does the submitted documentation support a contract exists between the parties for the disputed services?
2. Did the requestor support position that additional reimbursement is due for ASC services for code 26746-F2? Is the requestor entitled to reimbursement?
3. Did the requestor support position that additional reimbursement is due for ASC services for code 26735-F2? Is the requestor entitled to reimbursement?

Findings

1. According to the explanation of benefits, the carrier paid the services in dispute in accordance with a contracted or legislated fee arrangement. Texas Labor Code Ann. §413.011(d-3) states the division may request copies of each contract under which fees are being paid, and goes on to state that the insurance carrier may be required to pay fees in accordance with the division's fee guidelines if the contract is not provided in a timely manner to the division.

On October 13, 2010, the Division submitted a notice requesting a copy of the contract between the network and the health care provider in this dispute. The insurance carrier's representative acknowledged receipt of the notice on October 14, 2010. The notice provided for a deadline to submit the requested information no later than fourteen (14) days after receipt of the notice. The insurance carrier failed to provide a copy of the requested documentation. For that reason, the services in dispute will be reviewed in accordance with 28 Texas Administrative Code §134.402.

2. 28 Texas Administrative Code §134.402(d) states "For coding, billing, and reporting, of facility services covered in this rule, Texas workers' compensation system participants shall apply the Medicare payment policies in effect on the date a service is provided with any additions or exceptions specified in this section."
3. 28 Texas Administrative Code §134.402(f)(1)(A) states "The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the *Federal Register*. Reimbursement shall be based on the fully implemented payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the *Federal Register*, or its successor. The following minimal modifications apply: (1) Reimbursement for non-device intensive procedures shall be: (A) The Medicare ASC facility reimbursement amount multiplied by 235 percent."
4. HCPCS code 26746-F2 is defined as "Open treatment of articular fracture, involving metacarpophalangeal or interphalangeal joint, includes internal fixation, when performed, each."

The "-F2" modifier designates that it is the left hand third digit.

28 Texas Administrative Code §134.402(f) reimbursement for non-device intensive procedure for HCPCS code 26746-F2 is:

The Medicare fully implemented ASC reimbursement rate is found in the Addendum AA ASC Covered Surgical Procedures fully implemented payment for CY 2008 = \$1,083.02.

The Medicare fully implemented ASC reimbursement payment is divided by 2 = \$541.51.

This number X City Conversion Factor/CMS Wage Index for Arlington, Texas is \$541.51 X 0.9693 = \$524.88.

The geographical adjusted ASC rate is obtained by adding half of the national reimbursement and wage adjusted reimbursement \$541.51 + \$524.88 = \$1,066.39.

Multiply the geographical adjusted ASC reimbursement by the DWC payment adjustment $\$1,066.39 \times 235\% = \$2,506.01$.

The MAR for HCPCS code 26746-F2 is \$2,506.01. The respondent paid \$1,631.59. The difference between the MAR and amount paid is \$874.42. The requestor is seeking medical dispute resolution for \$643.88 for this code; this amount is recommended for additional reimbursement.

5. HCPCS code 26735-F2 is defined as "Open treatment of phalangeal shaft fracture, proximal or middle phalanx, finger or thumb, includes internal fixation, when performed, each."

The "-F2" modifier designates that it is the left hand third digit.

28 Texas Administrative Code §134.402(f) reimbursement for non-device intensive procedure for HCPCS code 26735-F2 is:

The Medicare fully implemented ASC reimbursement rate is found in the Addendum AA ASC Covered Surgical Procedures fully implemented payment for CY 2008 = \$1,083.02.

The Medicare fully implemented ASC reimbursement payment is divided by 2 = \$541.51.

This number X City Conversion Factor/CMS Wage Index for Arlington, Texas is $\$541.51 \times 0.9693 = \524.88 .

The geographical adjusted ASC rate is obtained by adding half of the national reimbursement and wage adjusted reimbursement $\$541.51 + \$524.88 = \$1,066.39$.

Multiply the geographical adjusted ASC reimbursement by the DWC payment adjustment $\$1,066.39 \times 235\% = \$2,506.01$.

The Standard payment adjustment rules for multiple procedures apply to HCPCS code 26735-F2; therefore, $\$2,506.01$ multiplied by 50% = \$1,253.00.

The MAR for HCPCS code 26735-F2 is \$1,253.00. The respondent paid \$815.79. The difference between the MAR and amount paid is \$437.21. The requestor is seeking medical dispute resolution for \$321.94 for this code; this amount is recommended for additional reimbursement.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation supports the reimbursement amount sought by the requestor. The Division concludes that the requestor supported its position that additional reimbursement is due. As a result, the amount ordered is \$965.82.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$965.82 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

1/30/2012

Date

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.